



EUROPEAN UNION
DELEGATION OF THE EUROPEAN COMMISSION

441-2(103)
special

Head of Delegation

February 24, 1999

The Honorable
Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan,

I have just read Ambassador Aaron's testimony of February 23, 1999 before the Senate Finance Committee and I am very troubled by his response to a question from Senator Roth regarding the proposed EU regulation aimed at reducing aircraft noise and limiting other environmental damage caused by the operation of aircraft. According to the transcript Ambassador Aaron answered that once the regulation comes into effect "literally hundreds of U.S. aircraft could no longer be used". Since this response clearly left the Committee with the incorrect impression that the regulation would interrupt current operations into the territory of the EU I have found it necessary to write to Ambassador Aaron and attach a copy of that letter for your information.

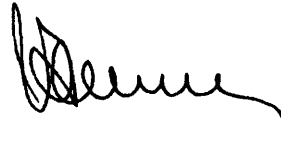
While some have attempted to portray the proposed measure as a trade issue, the reality of the matter is that the absence of an adequate international response to Europe's severe noise problems around its airports has forced the EU to act. The EU and its Member States have for years worked hard to get the International Civil Aviation Organisation (ICAO) to give due consideration to Europe's pressing noise problems, but these efforts have largely been ignored. In that connection the EU and its Member States have been very disappointed with the lack of support it has received from the US. In the face of ICAO's repeated failure to deal with the issue or even support calls for an unambiguous timetable for the elaboration of a new noise certification standard the EU had to act to safeguard sufficient airport capacity to meet the increasing demand for air travel. Sufficient airport capacity at European airports is to the benefit of not only the travelling public but also to all operators, including US carriers.

I would also like to stress that this measure has been under preparation for some years, initially within European Civil Aviation Conference (ECAC), and that the US administration has been aware that such a measure was being contemplated. In addition, the US Administration was privy to the public proposal that the European Commission presented in March 1998. The EU was

therefore very surprised by the Administration's belated and strong reaction at the very end of the legislative process.

I would appreciate the opportunity to discuss this proposed regulation with you directly at your earliest convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Paemen', with a long, sweeping horizontal stroke extending to the right.

Hugo Paemen
Ambassador



EUROPEAN UNION

DELEGATION OF THE EUROPEAN COMMISSION

Head of Delegation

February 24, 1999

The Honorable
David L. Aaron
Under Secretary of Commerce
International Trade Administration
Department of Commerce
Washington, D.C. 20230

Dear Mr. Undersecretary,

I have just read your testimony of February 23, 1999 before the Senate Finance Committee and I am very troubled by your response to a question from Senator William Roth regarding the proposed EU regulation aimed at reducing aircraft noise and limiting other environmental damage caused by the operation of aircraft. According to the transcript you answered that once the regulation comes into effect "literally hundreds of U.S. aircraft could no longer be used". The response clearly left the Committee with the incorrect impression that the regulation would interrupt current operations into the territory of the EU.

As far as civil subsonic aeroplanes registered in third countries (e.g. US aircraft) are concerned, the proposed regulation (Common position (EC) n. 66/98) leaves all chapter 2 aircraft free to **continue to operate** in as well as to and from the Community after April 1, 1999, provided that they were first issued an individual certificate of airworthiness less than 25 years ago. These aircraft can continue to operate until they reach 25 years of age or until April 1, 2002, whatever date comes first. Furthermore, recertificated civil subsonic aeroplanes, that have undergone adaptations to meet chapter 3, can **continue to operate** at airports in the EU after April 1, 2002, if they were on the register of that third country before April 1, 1999 and have been operated into the EU between April 1, 1995 and April 1, 1999. In other words the regulation recognizes the right to continue to fly into the EU after April 1, 2002 for such aircraft, if they have been operated at airports in the EU between 1 April 1995 and April 1, 1999. Current operations into Europe are therefore in no way affected.

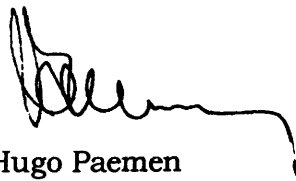
While I understand that the US Administration initially had some doubts on this point it was clarified by Mr. Coleman, Director General of DG VII during your meeting in Brussels on January 27, 1999. It was reaffirmed by Mr. Ayral, Director of Aviation Policy, DG VII, during a meeting with you in Washington on

February 9, 1999 and in a letter from Mr. Coleman to you dated February 22, 1999, copy attached.

Against this background and in the current climate that surrounds this issue I find your statement very difficult to understand and certainly unhelpful. We still have questions to resolve and our attention should be focus on real issues instead of bringing up ones that do not exist.

I have taken the liberty of sending a copy of this letter to Senator William Roth and Senator Daniel Patrick Moynihan.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Hugo Paemen', with a long, sweeping horizontal line extending to the right.

Hugo Paemen
Ambassador

Explanatory note

1. Noise status of qualifying aircraft on 1 April 1999

Currently, the use of Chapter 2 aeroplanes in, to and from the Community is regulated by Council Directive 92/14/EEC, as last amended by Council Directive 98/20/EC. Article 2 paragraph 1(b) of this Council Directive, provides that civil subsonic jet aeroplanes fitted with engines with a by-pass ratio of less than two which have been granted noise certification to the standards specified in Part II, Chapter 2, Volume I of Annex 16 can operate into the Community provided that they were first issued an individual certificate of airworthiness less than 25 years previously. Article 2 paragraph 2 of the same Directive specifies that, as from 1 April 2002, all civil subsonic jet aeroplanes operating from airports in the Community must comply with the standards specified in Part II, Chapter 3, Volume 1 of Annex 16.

Common position (EC) n° 66/98 adopted by the Council on 16 November 1998 concerning the Council Regulation on recertificated aeroplanes does not amend this Article 2 paragraph 1(b) of Council Directive 92/14/EEC. In conformity with the provisions of this paragraph after 1 April 1999 all Chapter 2 aeroplanes provided that they were first issued an individual certificate of airworthiness less than 25 years previously can continue to operate in as well as to and from the Community until they reach 25 years of age or until the 1 April 2002, contained in Article 2 paragraph 2, whatever date comes first. Therefore, if after 1 April 1999 aircraft owners or operators decide to prepare their Chapter 2 aeroplanes for recertification to Chapter 3 standards, the technical adaptation of these aeroplanes with a view to this recertification, can take place between 1 April 1999 and 1 April 2002. If such recertificated aeroplanes meet the eligibility criteria set out in Article 3 paragraphs 3 and 4 of the Common Position they can continue to operate into the Community after 1 April 2002.

2. By-pass ratio

The level of the by-pass ratio is considered as the best available proxy for the technology related environmental performance incorporated in the aero-engine. There is a direct link between an increase in the by-pass ratio resulting in a decrease of the engine's specific thrust and an increase in the fuel efficiency of the engine. An additional beneficial effect of an increase in the by-pass ratio is a reduction in jet noise, this is particularly relevant for the take off noise, where engines are run at close to maximum thrust and where jet noise is a significant contributor to overall noise levels.

There is an optimum by-pass ratio associated with the available technology of the day. Around 30 years ago the optimum by-pass ratio was around 2:1. Twenty years ago advances in turbine cooling and combustor technology allowed engines to be run at higher by-pass ratios of around 5:1. It is believed that today's advances would allow the optimum by-pass ratio for an all-new engine design to be around 10:1.

It should be noted that in the ICAO Resolution A 28/3 on possible operating restrictions on subsonic jet aircraft which exceed the noise levels in Volume I,

Chapter 3 of Annex 16 adopted in 1990 ICAO itself used the by-pass ratio as a dividing line when it urged states *"not to restrict before the end of the phase in period the operations of any presently existing wide-body aircraft or of any fitted with high by-pass ratio engines"* Therefore, the rules implementing this ICAO-Resolution adopted in Europe by the European Community and by the European Civil Aviation Conference provided an exemption for aircraft fitted with engines with a high by pass ratio, which was set 10 years ago set at a level of 2 or more.

3. Transferability of aircraft

As regards transferability, the proposed measure is not discriminatory. It applies in a non-discriminatory manner to all first registrations of recertificated aircraft in the Community. In addition, for the transfer after the 1 April 1999 of aircraft with a history of prior operations into the Community from the register of a Community Member State to the register of a third country, the rules are identical to those concerning a transfer between the registers of two third countries.